CONGRESSIONAL BUDGET OFFICE
PRIVATE-SECTOR MANDATES STATEMENT

March 23, 1998

H.R. 3485
Campaign Reform and Election Integrity Act of 1998

As Reported by the House Committee on House Oversight
on March 18, 1998

SUMMARY

H.R. 3485 would make changes to federal campaign finance laws that govern activities in elections for federal office. The bill would amend the Federal Election Campaign Act (FECA) of 1971 by revising current law restrictions on contributions and expenditures in federal elections. Provisions in the bill would both tighten and relax the requirements governing election-related contributions and expenditures. In addition, H.R. 3485 would impose new requirements to report certain activities in federal elections to the Federal Elections Commission (FEC).

By amending the requirements in FECA, H.R. 3485 would impose enforceable duties on various groups in the private sector. Consequently, the bill would impose new private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA). New mandates would be imposed on many entities, including: labor organizations, corporations, tax-exempt organizations, candidates for federal office, national political parties, U.S. citizens who contribute to political campaigns for federal office, noncitizens who legally reside in the U.S., pollsters, political committees, and other entities. However, because certain restrictions in FECA would simultaneously be loosened, H.R. 3485 would also reduce existing federal mandates.

CBO estimates that the net direct costs to the private sector of complying with new mandates would exceed the annual statutory threshold in UMRA ($100 million, adjusted annually for inflation) in 1999 as a result of new mandates on labor unions, corporations, and tax-exempt organizations. CBO estimates that the net direct costs to the private sector in future years would not likely exceed the statutory threshold and might even be zero. Estimates of small costs after 1999 reflect the diminishing cost of mandates on labor organizations,

corporations, and tax-exempt organizations. In addition, CBO's estimate reflects the net effect of mandates imposed on the national political parties and candidates that would restrict contributions and the offset to mandate costs associated with raising the individual limits on political contributions. However, because changes to laws governing federal elections often have unforeseeable consequences, estimates of the cost of federal private-sector mandates contained in H.R. 3485 are uncertain.

PRIVATE-SECTOR MANDATES CONTAINED IN THE BILL

Title I of the bill would impose new private-sector mandates on labor organizations, corporations, national banks, and tax-exempt organizations related to their use of funds for political activities. One mandate would require labor organizations to obtain written authorizations from both members and nonmembers before they could collect any portion of dues or fees to use for political activities. A similar mandate would apply to corporations and national banks that assess mandatory dues or fees on their stockholders or that require dues or fees from their employees as a condition of employment. Those organizations would be required to obtain written authorizations from their stockholders or employees before collecting any portion of dues or fees for political activities.

Title I would also impose mandates on corporations and tax-exempt organizations that spend money on political activities. Those organizations would be required to send annual notices to stockholders or members that inform them of the total amount they intend to spend on political activities in the upcoming 12 months. The notice would be required to include the shareholder's or member's applicable percentage and applicable pro rata amount of the proposed political spending. Along with the notice, corporations and tax-exempt organizations would be required to send a form that stockholders or members could complete and return to the organization to object to the use of their pro rata share of the proposed political spending. The maximum amount that the organizations could spend on political activities would be their proposed spending less the pro rata share of objecting stockholders or members.

Title II would prohibit noncitizen permanent residents from contributing to political campaigns of candidates for federal office and would prohibit persons from soliciting, accepting, or receiving political contributions from foreign nationals. Under current law, individuals who are noncitizens but have been lawfully admitted to the U.S. under the immigration laws are permitted to make political contributions, and other persons are authorized to accept such contributions. Consequently, by expanding the definition in FECA of "foreign national" to include any individual who is not a U.S. citizen, Section 201 would impose new private-sector mandates on certain categories of individuals.

Title III of H.R. 3485 would impose new private-sector mandates in several areas. Those areas include: additional requirements to report information to the FEC about political contributions and expenditures by individuals and political committees; restrictions on candidates in federal elections from accepting cash contributions greater than $100; new requirements on labor unions and corporations who solicit political contributions to ensure the anonymity of individuals who do not make contributions or who make contributions of less than $100; and new disclosure requirements on persons who conduct federal election polls by telephone or other electronic means.

Additional reporting requirements and restrictions on contributions or expenditures create new enforceable duties and, therefore, would impose private-sector mandates. Moreover, candidates for federal office and their organizations, political parties, and political committees are included as part of the private-sector for purposes of UMRA. Therefore, imposing new enforceable duties on those persons or groups meets the definition of a private-sector mandate in UMRA.

Title IV and Title VI would generally reduce existing mandates contained in federal campaign finance law. Title IV, for example, would lift some restrictions on contributions by individuals and political parties to candidates for federal office whose opponent spends personal funds in excess of $150,000. Title VI would reduce existing mandates by allowing higher contributions by individuals. Under Section 601, the individual limit on contributions to candidates would double to $2,000; the limit on individual contributions to national political parties would treble to $60,000; and the aggregate limit on all contributions would increase from $25,000 to $75,000 per year. Further, Section 602 would provide for indexing of the aforementioned limitations on annual contributions based on adjustments to the Consumer Price Index. Title IV, however, would impose a new mandate on the principal campaign committees of House candidates by requiring those committees to submit reports to the FEC when expenditures or contributions of a candidate's personal funds exceeded $150,000.

Title VII would prohibit the use of so-called "soft money" by national political parties and candidates. That prohibition would constitute a new enforceable duty and therefore meets the UMRA definition of a private-sector mandate. In general, soft money is considered funds outside the explicit restrictions, limitations, or reporting requirements in FECA but is used to influence federal elections. Furthermore, Section 702 would amend FECA to prohibit foreign nationals (as redefined by Section 201 of the bill) from disbursing funds or other things of value and other persons from soliciting, accepting, or receiving disbursements from foreign nationals. Because H.R. 3485 would create a more expansive definition of foreign national than exists under current law and soft-money disbursements by foreign nationals would be prohibited, Section 702 would impose a new private-sector mandate.

Finally, Title VIII would impose new reporting requirements on individuals (or organizations) who make payments totaling over $250 for certain communications. New requirements would apply to communications made within 90 days of a federal election and that mention a clearly identified candidate, the political party of a candidate, or contain the likeness of a candidate for office.

ESTIMATED DIRECT COST TO THE PRIVATE SECTOR

CBO estimates that the direct costs of new private-sector mandates contained in H.R. 3485 would exceed the statutory threshold in 1999, the first year that the mandates would be effective. After 1999, however, direct costs would likely be small and not exceed the statutory threshold in UMRA. In future years, the costs associated with mandates on labor organizations, corporations, and tax-exempt organizations would diminish, and the direct cost of banning soft money and other political contributions would be offset by savings associated with raising the limits on individual contributions to political campaigns.

In 1999, labor organizations, corporations, and tax-exempt organizations would bear most of the costs associated with new mandates in the bill. CBO estimates that the total cost to those entities of complying with requirements in H.R. 3485 would exceed the $100 million statutory threshold. Direct costs would also be imposed on national political parties and candidates for federal office by the prohibition against the use of soft money. To a large extent, however, the costs to national parties and candidates of banning soft money would be offset by provisions that raise the limits on individuals contributions. Raising the individual limits, which would enable national parties and candidates to accept larger contributions, would neutralize the costs of the ban on soft money. Consequently, those net direct costs would be zero.

Other mandate costs would stem from provisions in the bill that require reports by different organizations and individuals to the Federal Elections Commission. The direct costs associated with additional reporting requirements would not be significant or over the statutory threshold in UMRA. In general, most entities involved in federal elections must submit reports to the FEC under current law. New requirements in H.R. 3485, however, would impose some costs on pollsters and individuals who pay for certain communications associated directly and indirectly with federal elections. Lastly, new mandates that restrict the ability of individuals to contribute to or make expenditures on behalf of political campaigns would impose no net direct costs.

<u>Labor Organizations, Corporations, National Banks, and Tax-Exempt Organizations</u>. CBO estimates that the cost of private-sector mandates in Title I affecting labor organizations,

corporations, national banks, and tax-exempt organizations would exceed the $100 million threshold specified in UMRA only in the first year that mandates were effective. The total cost of the mandate on labor organizations in the first year would be significant, even though the cost per worker of obtaining written authorizations would be low. The Bureau of Labor Statistics reported that, in 1997, there were 16.1 million union members. If the average cost to the union of obtaining authorizations (including the zero cost for workers whose labor organizations do not use dues or fees for political spending) was $4 per worker, then the total cost of complying with the mandate for labor organizations would be about $64 million in 1999.

Regarding the similar mandate imposed on corporations and national banks, CBO does not have reliable information on the extent to which those organizations require mandatory dues or fees from their stockholders or employees. However, the costs to those organizations of obtaining authorizations would likely be small. In future years, the aggregate cost of authorization-related mandates on unions, corporations, and national banks would be modest because H.R. 3485 would require mandated entities to obtain authorizations only one time for each shareholder or worker.

The cost to corporations and tax-exempt organizations of notifying their stockholders and members of their proposed spending on political activities would also be significant in the first year. According the Securities and Exchange Commission, there are currently about 13,000 publicly-traded corporations. Assuming that each corporation would spend an average of $4,000 on legal expenses and other administrative costs of compliance, the direct cost of the mandate would be $52 million.

The first-year cost of the mandate on tax-exempt organizations is more uncertain. A report from the Internal Revenue Service indicates that there are about 1.1 million tax-exempt organizations. Excluding organizations that may receive tax-deductible contributions and are therefore prohibited from engaging in political activities, approximately 500,000 organizations could potentially be affected by H.R. 3485. If only 10 percent of those organizations incur costs of even $500 in the first year, then the total cost of the mandate would be about $25 million.

After the first year, the cost to corporations and tax-exempt organizations of complying with the mandate would be small. Once those entities have developed the required notices and set up systems to comply with the mandate, additional costs in later years would mainly be the cost of including the notices and forms with regular mailings to shareholders and members.

National Political Parties and Candidates. New mandates in H.R. 3485 would impose costs on national political parties and candidates by prohibiting the use of soft money. However, because the bill would relax other restrictions on contributions to national parties and candidates by individuals, the direct costs of that prohibition would be offset and net to zero.

The FEC reported that the national political parties raised about $75 million in soft money in 1997. Such contributions would be prohibited under H.R. 3465, and the direct cost of that mandate would equal the forgone amount of soft money contributions. As the 2000 election cycle approaches, the direct cost of the prohibition would likely increase. Historically, soft money contributions increase significantly in presidential election years. During the 1996 election cycle, for example, soft money contributions for national political parties totaled approximately $260 million, which represented a threefold increase in soft money contributions over the 1992 election cycle. Consequently, soft money contributions during the 2000 election cycle could be expected to meet or exceed 1996 levels.

Offsetting the soft money prohibition, however, H.R. 3485 would also increase the annual limit on political contributions by individuals to candidates and political parties and the annual limit on total contributions. Those limits, which have been unchanged for almost 25 years, would increase from $2,000 to $6,000 for individual contributions to candidates and from $20,000 to $60,000 for individual contributions to national political parties. The overall annual limit on contributions would also be increased from $25,000 to $75,000. According to the FEC, individuals are the primary source of campaign receipts for candidates and political parties. Given that candidates for federal office (including presidential candidates) during the 1996 election cycle garnered over $1 billion in receipts, increasing the limits on contributions to political campaigns would likely have a significant impact on the behavior of donors and could raise significantly the aggregate amount of campaign contributions.

Expanding the ability of candidates and their authorized political committees to accept larger contributions would likely be more than sufficient to offset increased costs incurred by candidates and other private-sector entities in complying with new federal mandates. Thus, CBO estimates that the direct costs of new private-sector mandates imposed on national parties and candidates for federal office would fall below the statutory threshold and probably net to zero.

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